IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4063 OF 2006,
CRIMINAL APPLICATION NO.4064 OF 2006,
CRIMINAL APPLICATION NO.4065 OF 2006

Shankar Prasad Daruka ...Applicant
(in all the applications)

vs.

1. State of Maharashtra
2. ICICI Bank Ltd. ...Respondents
(in all the applications)

Mr.Shashi Jain for the Applicant
Mr.D.P.Adsule,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : NOVEMBER 23,2006.

P.C.:

1. Heard learned Counsel for the Applicant. In these three Applications a prayer is made for quashing the complaints filed by the second Respondent under section 138 of Negotiable Instruments Act, 1881. A prayer is also made for quashing the order issuing process passed by the learned Magistrate.

2. In view of the decision of this Court in case of V.K.Jain and others Vs.Pratap Padode and another [2005 (3) Mh.L.J. page 778], the Applicant can approach the Sessions Court by filing a Revision Application for challenging the order issuing process. The jurisdiction under section 482 of the Code of Criminal Procedure, 1973 has to be exercised sparingly and only in exceptional cases. When the Applicant has a remedy available by way of filing a Revision Application before the Sessions Court, it is not necessary to entertain

these Applications under section 482 of the said Code.

3. The learned Counsel for the Applicant makes a grievance that the learned Magistrate has issued warrants against the Applicant. So far as this grievance is concerned, it is for the Applicant to appear before the learned Magistrate and to apply for cancellation of warrants. The Applicant can be protected for a limited time to enable him to appear before the learned Magistrate and to apply for cancellation of warrants.

4. Hence, I pass the following order :

i) The Applications are dismissed. Notwithstanding the dismissal of the Applications, it will be open for the Applicant to file the Revision Applications before the appropriate Court of Session for challenging the order issuing process.

ii) The warrants issued against the Applicant shall not be executed for a period of six weeks from today. Within a period of six weeks from today, the Applicant will appear before the Trial Court and will apply for cancellation of warrants. If such Application is made, the concerned Court will decide the same on its own merits.

iii) All contentions of the parties on merits are kept open.

JUDGE